



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

June 15, 2018

The Honorable Brian Sandoval
Governor
One Hundred One North Carson Street
Carson City, Nevada 89701

Dear Governor Sandoval:

I am writing in response to your May 8, 2018 letter to Secretary Mnuchin regarding your request to modify your pending nomination of population census tracts (tracts) for designation as Qualified Opportunity Zones for purposes of Section 1400Z-1 of the Internal Revenue Code (IRC).

Specifically, you seek to replace a previously nominated non-low-income community (non-LIC) contiguous tract with a different non-LIC contiguous tract. The latter or replacement tract is eligible under the 2012-2016 American Community Survey (ACS) five-year data from the U.S. Census Bureau but not eligible using the 2011-2015 ACS five-year data. In your letter, you cite an incongruity between Section 3.07 of Revenue Procedure 2018-16 which permits the nomination of non-LIC contiguous tracts using the most recent ACS data and Section 4.1.5 of the nomination instructions published by Treasury's Community Development Financial Institutions (CDFI) Fund which does not. Section 4.1.5 also allows use of the most recent 2012-2016 ACS data for LIC tracts. As such, Treasury has decided to accept your modification request on the ground that the substituted census tract and the supporting information satisfy the requirements in Section 3.07 of Revenue Procedure 2018-16. We intend to revise the nominations instructions to conform to this approach for future nominations, if the program is extended by Congress.

You will receive a separate letter from the Internal Revenue Service certifying your nomination and designating the tracts as Qualified Opportunity Zones under IRC Section 1400Z-1(b)(1)(B).

We hope this information is helpful.

Sincerely,

David J. Kautter
Acting Commissioner